

**REPORT OF THE JUDICIAL RESOURCES COMMISSION
TO THE SUPREME COURT
AND GENERAL ASSEMBLY
CY 1996**

PREPARED PURSUANT TO §476.415, RSMo

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Since issuing its first report in 1991, the Judicial Resources Commission has met annually to review the state of the judiciary and make recommendations as needed. The following report is the result of that review for Calendar Year 1996.

FAMILY COURTS

Family Courts, established by statute in 1993, offer a means of coordinating many related judicial activities in a more effective and efficient way than heretofore possible. Under the "umbrella" of the family court, domestic relations cases, adoptions, juvenile cases, adult abuse/child protection petitions, paternity cases and child support issues are handled by a single court whose primary purpose is to adjudicate these often-related cases. Since the adoption of family court legislation three years ago, eight courts have established a family court.

The family courts have been active in developing and implementing programming for the family courts. Mandatory divorcing parent education and custody/visitation mediation programs have been implemented in some form in some circuits. Several circuits have created new programming directed towards juveniles and their families, including school-based Deputy Juvenile Officers, tutoring and family counseling programs, and an analysis of the process of court review of cases involving out-of-home placements.

Yet in many courts, these valuable programs remain unavailable to litigants and their families, as do the benefits gained from a more coordinated approach to the issues involved. Separate judges and clerks handle juvenile, adult abuse, domestic relations, and paternity cases, despite the fact that some of the cases overlap and could be best addressed as a whole. For example, it is not unusual to find that a child of divorced parents has behavior problems that land him or her in juvenile court.

The present system places court clerical staff in situations which are more appropriate for trained professional staff, e.g., assisting with adult abuse petitions, discussing visitation problems, etc. These matters require an understanding of the complex issues that often arise from these cases and skill in bringing the appropriate resource to bear.

The Commission recommends that, wherever possible and needed, family courts be established. It also recommends that adult abuse and child protection assistance be provided by someone other than a clerk, preferably a professional staff member. The Commission encourages presiding judges to adopt mediation programs, or something analogous, in those domestic relations cases where children are involved.

COURTHOUSE FACILITIES

Courts lack facilities to accommodate senior and transferred judges, lack jury facilities and clerical work space. This problem will become more acute as automation progresses and courts need adequate wiring and space for computer hardware. Many courts are still inaccessible to the handicapped. Additionally, effective courthouse security is lacking in the majority of Missouri's courts.

At present, official court reporters frequently cannot be freed from regular assignments to preserve lengthy or complex trials conducted by senior judges. As a result, litigants willing to use a senior judge who wish to have a court reporter are required to pay for the related costs themselves. This is unfair, since other litigants who have similar cases heard by active circuit judges are not required to assume these costs.

The report of the Court Security Committee, submitted to the Supreme Court in August 1996, recommended that the Office of State Courts Administrator seek an appropriation to fund a Director of Court Security within the office. A decision item for this position was included in the FY 98 budget request. Additionally, an appropriation is being sought to develop a prototype of a regional justice center that will better meet the needs of the people than the present county-based facilities by offering up to three (3) planning grants to be used to coordinate local interest and prepare plans and feasibility studies to be used by local decision makers. Ideally, regional justice centers should include, beside court facilities, space for a jail, the public defender, the prosecutor, and probation and parole.

The Commission recommends that adequate support services be provided for senior judges, including court reporters for lengthy or complex trials. The Commission recommends that presiding judges arrange for necessary facilities--court reporter, courtroom--in advance for a senior judge who has agreed to serve. The Commission supports the Office of State Courts Administrator's budget request for an appropriation to fund a Director of Court Security within the office. Additionally, the Commission supports the Office of State Courts Administrator's budget request for an appropriation to develop a prototype of a regional justice center.

SENIOR JUDGES

Section 476.682, RSMo provides the statutory basis for compensating senior judges the difference between their judicial retirement and the salary of the office for those days they sit as a senior judge pursuant to Supreme Court order. This is a means of providing additional days of judge time, where needed, for a fraction of the cost of a permanent judge.

In FY 96, 34 retired judges accepted assignments to serve as senior judges. Senior judges accepted period of time orders totaling 3860 days. Senior judges served for 2276 days in FY 96. This amounts to 455 weeks of judicial service provided by senior judges where vacancies had occurred due to retirement of illness, keeping dockets current until a replacement was appointed or in an effort by the court to remain current. Based on the

statutory standard of 235 days equaling one year's service, senior judges provided almost 10 judgeships in FY 96. In addition, senior judges were assigned to 105 individual cases that were for the most part multi-day jury trials or complex matters. In the past, senior judges were only paid a percentage of their actual time billed. Because of a core transfer and an additional appropriation, it is anticipated that, for the first time, senior judges will be able to be paid for 100% of their time billed in FY 97.

In past reports, the Commission has issued a recommendation that senior judges be fully compensated for their work. The Commission expresses its gratitude to those responsible for providing the necessary funding to fully compensate senior judges this fiscal year.

MUNICIPAL COURTS

Municipal courts handle municipal ordinance violations. Section 479.020 RSMo provides that "Any city, town or village, including those operating under a constitutional or special charter, may, and cities with a population of four hundred thousand or more shall, provide by ordinance or charter for the selection, tenure and compensation of a municipal judge or judges...." (Where a municipal judge has not been appointed or elected, associate circuit judges hear municipal cases.) Municipal judges in Kansas City are appointed under the non-partisan court plan. In municipalities with a population under 7,500, municipal judges are not required to be attorneys. At present, about 25% of the 336 municipal judges are non-lawyers. Many municipal courts operate relatively autonomously. While the presiding judge of the circuit has superintending authority, in fact many courts are unsupervised until a problem develops. Because the municipal courts are the only courts that many citizens have contact with, the Commission is concerned that they meet the high standards of the rest of the judiciary.

The Commission recommends that the General Assembly appoint a Joint Committee to study this issue. Specifically, the committee should study the administration, training and standards of the municipal courts. Any recommendations coming out of this process should be jointly addressed by the judicial, executive and legislative branches.

JURY MANAGEMENT

[Courts continue to experience difficulty assembling jury pools and the public continues to regard jury service as too burdensome. Improving juror compensation, providing better accommodations and making jury duty a more positive experience remain important goals.] Alternatively, imposing stricter penalties for failure to appear when called for jury duty may be one way of increasing the size of pools. The Missouri Advisory Commission on the Organization of the Judicial Department made several related recommendations in its 1995 report, including reduction in the minimum age to 18. In September, the Judicial Conference voted to recommend a reduction in the minimum age to 18.

The Commission recommends that the General Assembly consider legislation which improves the compensation and protection of citizens asked to perform service as jurors.

CIRCUIT CLERKS

The function of the office of circuit clerk has changed dramatically in recent years. Legislation and court rules have added additional administrative responsibilities; clerks collect and disburse large amounts of money; they have an active role in case processing activities; they are responsible for assisting in thousands of pro se filings; and they are responsible for supervising growing numbers of employees. All of these changes have occurred without changes in the statutory qualifications for circuit clerk. In its December 1995 report, the Missouri Advisory Commission on the Organization of the Judicial Department recommended that Missouri gradually move to a state-wide system of appointed circuit clerks. The Advisory Commission further recommended that the title of the position be changed to "circuit court administrator" to reflect the administrative duties that person will have overseeing the business and staff of the circuit. Inasmuch as this recommendation would lead to a reduction in the number of circuit clerks that exist in many circuits, the Commission also recommended that the enabling legislation provide that any person serving as a circuit clerk on January 1, 1997, shall be retained as part of the transition to a circuit court administrator system.

The Judicial Conference passed a resolution at its 1996 meeting calling for the appointment of circuit clerks.

The Commission concurs with the resolution of the Judicial Conference. [The position of circuit clerk is a highly responsible position which is critical to the efficient operation of the circuit courts. Appointment will insure that the circuit clerks possess the required qualifications for this important office, and will assure a close working relationship between judges and the office of circuit clerk.]

CLERICAL TRAINING

[Although the role of the clerk has become increasingly more complex and sophisticated, training that is commensurate with this increasing need for sophistication is not being provided. This lack of training is increasingly showing up in the form of ineffective and inefficient court services, numerous problems with theft, and an increasing dissatisfaction among the public which expects 21st century technology but which is run by personnel with 19th century skills.]

In FY 97, \$34,000 was appropriated toward the establishment of a clerk academy to provide training for the more than 1,800 clerical staff in the circuit courts. For FY 98, a budget request has been submitted for \$214,243 to establish a clerk academy that would provide comprehensive training programs including orientation, computer skills, customer service, supervisory skills, case processing/financial, and regional clerk training. SB 869, passed in 1996, provided for the creation of a revolving fund to handle local moneys that

can be used for training. A FY 98 budget request has also been submitted to provide authority for the expenditure of funds.

The Commission supports the Circuit Courts' budget request for an appropriation to fund a clerk academy. The Commission also supports the budget request for a revolving fund to handle local moneys that can be used for training.

ELECTRONIC COURTS/2004

The concepts of Service, Justice, and Access embody the vision of the EC/2004 project for the Missouri Court Automation committee. The concepts are so basic to the State's judicial process that they are contained in Missouri's constitution. Article I, Section 14 states, "That the courts of justice shall be open to every person...and that right and justice shall be administered without sale, denial or delay." EC/2004 is to be a family of automated systems which will combine advanced technologies and core court applications to create better, more efficient service at a lower cost, improved criminal and civil case processing, and easier, broadened access to the judiciary for Missouri's citizens, justice agencies, attorneys, and the press. As part of the planning process, the project staff have collaborated with other state agencies, including the Highway Patrol, Public Defender, Revenue, and Social Services, and with local police, sheriffs, and prosecuting attorneys, as well as with the Missouri Bar, to ensure that information is available to as wide a variety of users as possible. Funding for this project is scheduled to sunset in 1999. To continue this valuable and complex project, the court automation fund authority needs to be extended by the legislature for five additional years, to at least 2004.

The Missouri Court Automation Committee, created in Section 476.085, went through an extensive bid process, and on September 18, 1995, awarded the first major contract of the court automation project. The project director started hiring staff early in FY 96. During FY 96 and much of FY 97, the project has been in the development phase. The contract calls for a series of deliverables and a method by which the Committee can direct the contractor to take on other projects at rates determined in the bid.

As of July 18, 1996, the contractor has completed working on the five major areas under the original contract:

- 1) General Project Plan and Requirements Analysis
- 2) Network Architecture
- 3) Infrastructure Standards and Alignment
- 4) Systems Architecture Analysis and Design, and
- 5) Project Management.

In addition, concept papers have been approved, and the contractor along with OSCA and EC/2004 staff have begun work on:

- 1) Court Case Workflow analysis and design for the three Case Management System pilot sites--Montgomery County, Jackson County and the Eastern District Court of Appeals,

- 2) Case Management system procurement and system roll-out to three pilot sites,
- 3) Infrastructure assessments and assessment procedures for twenty-seven court sites,
- 4) Alignment of six court sites based on information obtained from the site assessments, and,
- 5) State-wide roll-out of groupware communication software (Lotus Notes.)

The Commission recommends that the legislature extend the funding authority for statewide court automation to at least 2004 so that this valuable project can continue. The Commission acknowledges the ongoing need to maintain the automation system, to expand the applications of the system, and to replace and maintain equipment. Therefore, the Commission supports the development of a long-term, stable method of funding what will be an indispensable service within the judiciary.

JUDICIAL RESOURCE ALLOCATION

The constitutional provision (Article V Section 16) requiring an associate circuit judgeship in each county has resulted in an inequitable distribution of judicial resources. Again in 1997, the Judge Transfer Program has been authorized to partially alleviate this problem.

The Commission recommends that the issue of allocation of judges should be jointly addressed by the judicial, executive and legislative branches at the earliest possible time so that caseloads among judges will be brought into better balance, and that caseloads be reviewed on a regular basis to insure that judicial resources continue to be properly allocated.

TIME STANDARDS

Supreme Court Administrative Rule 17 established time standards for Missouri courts. The purpose of the time standards, which were effective July 1, 1993, is to establish reasonable time frames during which litigants can expect to have their disputes resolved. Courts across the state continued to make significant progress in meeting standards in 1996. Also in 1996, seven public hearings were held throughout the state to receive input on the standards. Based on feedback received during these hearings, the Time Standards Monitoring Committee recommended several changes to Administrative Rule 17; these changes were made by the Supreme Court effective 1/1/97.

Programs offered at the Judicial Colleges this year included "Time Standards/ Judicial Management--Taking Control of Your Docket." Presently, a task force to provide on-site assistance in implementing new procedures to judges and clerks in case management and docket control is being formed.

No recommendation required.

UNFUNDED LEGISLATION

[Legislation which is passed without appropriations to handle the increased workload continues to cause difficulties for the judiciary. In the last eleven years, budget requests have been made for 42 FTE based on fiscal notes on new legislation. These requests have gone unfunded despite statutory provisions expanding clerks' duties.]

The Commission recommends that the legislature consider the "ripple effect" of the legislation it passes to avoid creating a workload that cannot be handled by present staff, and that it remains committed to funding FTE contained in fiscal notes after legislation is passed.

STATE PUBLIC DEFENDER COMMISSION

The historical challenge facing Missouri's Public Defender System has been retention of experienced attorneys. Just three years ago, nearly 20% of all Missouri public defenders resigned annually, usually citing low compensation as the reason. Recent funding increases improved attorney salaries, greatly improving retention. Today's attorney turnover rate is approximately 8% with exit interviews indicating compensation is no longer a major factor in the attorney's decision to leave the system. As of July 1, 1996, the average tenure of a Missouri Public Defender was 4.22 years. The more experienced public defenders have provided better representation and have contributed to a higher case disposition rate.

The caseload of Missouri's Public Defender System increased dramatically in FY 96, to 70,509, up 15.5% from FY 95 and 7,361 cases more than projected. Projecting only 8% increases, Missouri's Public Defender caseload will exceed 100,000 cases by the year 2001. The increase alone in the next five years will be greater than the total caseload of ten years ago.

This year the General Assembly approved funding to replace this Department's outdated word processing system with a new computer system, compatible with the emerging State Courts Automation System. The General Assembly also approved additional staff and funding to implement new legislation, specifically the Juvenile Crime Bill (HB 174). In September, the State Public Defender Commission approved establishment of a new unit of public defenders specializing in juvenile court representation. Attorneys for this unit are expected to be stationed in the St. Louis and Kansas City metropolitan areas where they will provide direct representation in juvenile court and be a resource for other public defender offices throughout the state.

Finally, the public defender and staff must have adequate, efficient office space. Establishment of local public defender offices is the duty and responsibility of the State Public Defender Commission. However, RSMo 600.040.1 mandates the expense for local offices be the responsibility of the city or county served by that office. Under this statutory scheme, conflict between this Department and local governments is inevitable. The State Public Defender Commission cannot fulfill its responsibility of establishing or expanding local public defender offices without the support of local governments. Understandably, counties object to being forced to support a department of state

government, particularly when the county has no say in the establishment or expansion of local public defender offices.

The State Public Defender Commission proposes a revision to RSMo 600.040 which would make the obligation of providing office space for state public defenders a state obligation, rather than the county obligation. The Commission's FY 98 budget request includes decision items which fund office space needs and address the growing caseload.

The Commission supports the Public Defender's office in its efforts to revise 600.040, RSMo and in its budget requests for funding for office space needs and to address the growing caseload.

JUVENILE FACILITIES AND TREATMENT SERVICES

The increase in the number of children certified to stand trial as an adult, the lack of treatment facilities for certified and other levels of juvenile offenders, and legislative requirements that state agencies share data with the unautomated juvenile system continue to create problems for the juvenile courts.

Some significant progress, however, has been made in 1996. The Juvenile Court Personnel Advisory Commission was appointed by the governor to study whether a uniform personnel system should be established and to analyze the need for regional detention centers. Their report is due to be issued in December. Two FTE (one professional and one clerical) were appropriated in the FY 97 budget in OSCA to begin implementing the provisions of HB 174 (1995). An advisory committee has been created that will assist in the development of standardized procedures for juvenile court services and review the juvenile process flow models for the EC/2004 project. The Supreme Court Family Court Committee continues to examine areas that fall under the jurisdiction of the Family Court.

After a thorough assessment of the handling of abused and neglected children, a budget request has been made for funding of two pilot sites to accelerate the court hearing process in order to achieve permanent homes for abused and neglected children in a more timely manner. The processes resulting from this pilot study will be recommended to the Supreme Court for statewide adoption.

The Commission supports the budget request to fund two pilot sites to accelerate the court hearing process in order to achieve permanent homes for abused and neglected children in a more timely manner.

EMERGING ISSUES

While the Commission makes no specific recommendations in the following areas, it is aware of several emerging issues:

Court Workload Distribution

In some counties, separate offices, e.g., circuit, associate, probate, result in inefficient practices and confusion for the public. The Circuit Court Budget Committee has approved a program to provide financial and technical assistance to courts wanting to consolidate clerks' offices.

Child Support Collection

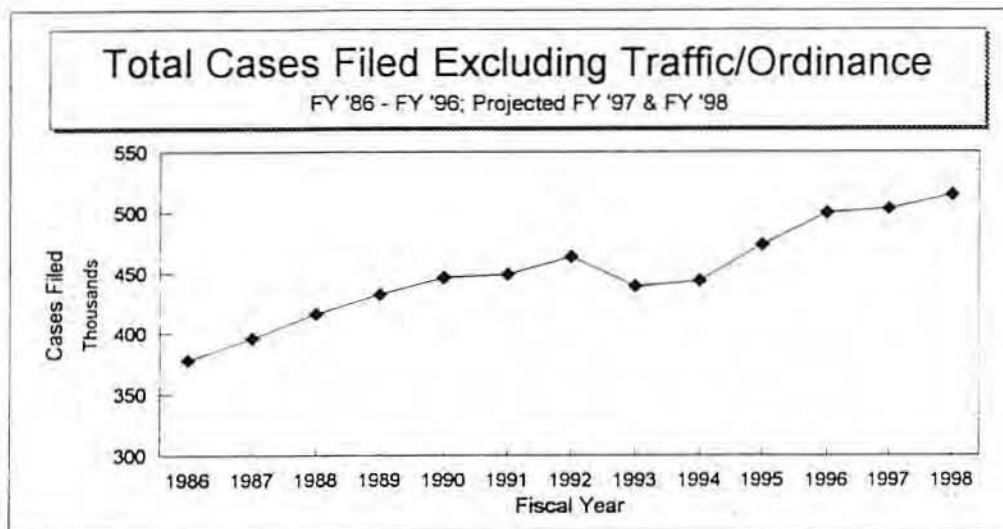
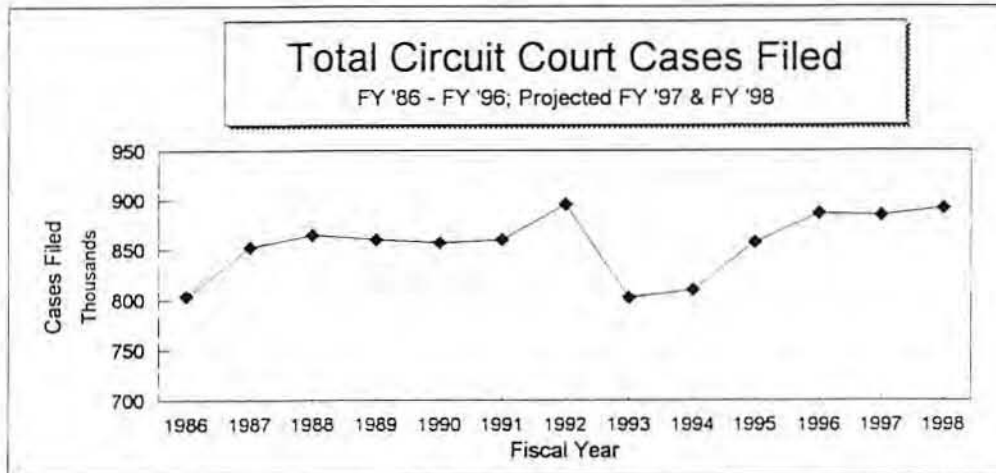
Child support and disbursement must be placed in a central agency no later than 1999. (Required by Welfare Reform Act.)

Central Fine Collection Bureau

A central fine collection bureau authorized in SB 869 establishes a statewide traffic violation bureau and standard fine schedule for those courts electing to participate. The FY 98 budget request contains a decision item for six FTE and the E&E necessary to establish the unit, develop and test procedures, and establish the training routine for new staff.

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OVERALL CASELOAD GROWTH



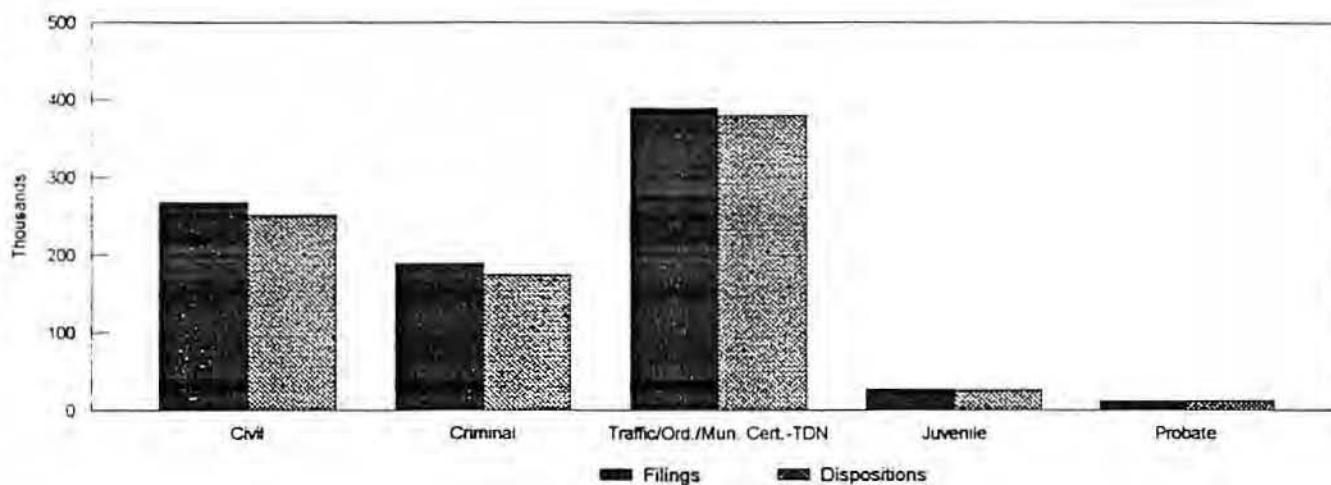
The creation of the St. Louis County traffic court and the volatility of the high-volume state traffic caseload can be seen in the comparison of total case filings with and without traffic. Legislation shifted about 55,000 county ordinance cases to a new St. Louis County traffic court in 1993, and state traffic case volume was down in FY 93 and FY 94.

Please note "Total Circuit Court Cases Filed" includes civil, criminal, juvenile and probate statistics.

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**STATEWIDE CASELOAD, TRANSFER AND ASSIGNMENTS STATISTICS
FY 1996**

**Graph 1
Missouri Circuit Court
Cases Filed and Disposed
FY 1996**



**Table 1
Missouri Circuit Court
Cases Filed and Disposed by Case Type
FY 1996**

<u>Case Type</u>	<u>Filed</u>	<u>Disposed</u>	<u>*Disposition to Filing Ratio</u>
Civil	268362	251724	0.94
Criminal	189512	174934	0.92
Traffic/Ordinance/ Municipal Cert./TDN	389614	379805	0.97
Juvenile	26822	26231	0.98
Probate	11872	11603	0.98
Total	886182	844297	0.95

* This ratio, calculated by dividing the number of cases disposed by the number filed, gives an indication of how well the courts are keeping up with their workload. A ratio of 1.00 or greater indicates that the courts disposed at least as many cases as were filed. A ratio of less than 1.00 indicates that the courts disposed fewer cases than were filed and experienced an increase in pending caseload.

Table 2
Missouri Circuit Court
Cases Disposed by Manner of Disposition
FY 1996

Case Type	With Trial		Without Trial			*Other	Total
	Jury	Court	Uncontested	Plea	Dismissed		
Civil	952	44843	114355	n/a	86262	5312	251724
Criminal	928	1907	n/a	94317	47049	30733	174934
Traffic/Ord./Municipal Cert./TDN	46	9912	n/a	335424	33240	1183	379805
Total	1926	56662	114355	429741	166551	37228	806463

Note: Other includes such manners of disposition as change of venue, certification and bind over of felony preliminary cases.

Table 3
Missouri Circuit Court
Judge Transfers/Assignments
FY 1996

	No. of Days	No. of Individual Case Assignments	*Total Civil/Criminal Cases Disposed
Transfers of Associate/Circuit Judges	1508	1582	13317
Senior Judge Assignments	4837	151	8686

Note: Transfers/assignments are made for either specific periods of time or to handle individual cases. Numerous cases may be heard in a single period-of-time assignment.

* Not available for traffic, probate, nor juvenile case types.

CASE PROCESSING TIME STANDARDS						
	Percent for All Cases Disposed in the State				Standard FY96	Circuits Meeting FY96 Time Standards
	FY93	FY94	FY95	FY96		
Circuit Civil						
In 12 mos	54%	57%	59%	67%	90%	Circuit 14
In 18 mos	68%	69%	69%	78%	98%	Circuit 14
in 24 mos	78%	79%	77%	85%	100%	
Domestic Relations						
in 4 mos	58%	59%	66%	68%	90%	
In 8 mos	72%	73%	81%	83%	98%	
In 12 mos	80%	82%	89%	90%	100%	
Associate Civil						
In 4 mos	53%	65%	69%	75%	90%	Circuits 1, 2, 9, 10, 15, 18
In 6 mos	60%	74%	79%	85%	98%	
In 12 mos	71%	86%	91%	96%	100%	Circuits 1, 9, 14, 17, 36
Summary Civil*						
In 2 mos	69%	73%	74%	79%	90%	Circuits 9, 14
In 3 mos	77%	82%	84%	89%	100%	
Felony Complaint						
In 2 mos	52%	60%	63%	66%	95%	
In 3 mos	65%	74%	77%	80%	98%	
In 5 mos	79%	86%	89%	90%	100%	
Circuit Felony						
In 4 mos	57%	56%	63%	64%	90%	
In 8 mos	80%	80%	84%	84%	98%	Circuit 13
In 12 mos	90%	91%	92%	91%	100%	Circuit 6
Misdemeanor/Municipal Certified/Trial de Novo						
In 3 mos	53%	60%	66%	67%	90%	Circuit 34
In 4 mos	62%	70%	75%	77%	98%	
In 6 mos	73%	80%	85%	87%	100%	
* Summary Civil includes hearings to reinstate a driver's license following refusal to submit to a chemical test for blood alcohol content; limited (hardship) driving; landlord/tenant actions; replevin; and small claims cases.						

AGE OF CASES AT DISPOSITION			
	Average Age in Days		% of Decrease
	FY 1994	Fy 1996	
Circuit Felony	153	151	1%
Felony Complaint	148	95	36%
Misdemeanor	232	127	45%
Circuit Civil	466	351	25%
Domestic Relations	215	146	32%
Associate Civil	203	106	48%
Summary Civil	111	57	49%